



## DEPARTMENT OF LABOR

### Mine Safety and Health Administration

#### Petition for Modification of Application of Existing Mandatory Safety Standards

**AGENCY:** Mine Safety and Health Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

**DATES:** All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments identified by Docket No. MSHA-2022-0009 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2022-0009.
2. *Fax:* 202-693-9441.
3. *Email:* [petitioncomments@dol.gov](mailto:petitioncomments@dol.gov).
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452, *Attention:* Song-Ae A. Noe, Acting Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

**FOR FURTHER INFORMATION CONTACT:** S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@dol.gov (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

**SUPPLEMENTARY INFORMATION:** Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

## **I. Background**

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

## **II. Petition for Modification**

Docket Number: M-2022-005-M

Petitioner: Sierra Minerals, LLC, 10585 Double R Boulevard, Suite B, Reno, Nevada 89521.

Mine: Columbo Mine, MSHA ID No. 04-05951, located in Sierra County, California.

Regulation Affected: 30 CFR 57.11052(d), Refuge areas.

Modification Request: The petitioner requests a modification of 30 CFR 57.11052(d) to permit the use of commercially purchased water in sealed bottles in lieu of providing potable water through waterlines in the existing refuge chamber.

The petitioner states that:

- (a) The mine is an underground historic gold mine being rehabilitated and developed.
- (b) The mine has one refuge chamber.
- (c) The maximum number of miners working underground during a shift is four.
- (d) The mine is located at an elevation of 5,400 feet in the Sierra Nevada Mountains, 3.6 miles above the town of Sierra City, California. Installation of a potable water system is not practical at this location. External water lines and water storage facilities are subject to freezing during winter months. Installation of a potable water system at this remote location would be prohibitive.
- (e) The waterline requirement diminishes safety in the mine as there is no natural or potable water source readily available.
- (f) Equal or better safety can be provided to miners by maintaining a supply of commercially purchased water in sealed bottles in the refuge chamber.

The petitioner proposes the following alternative method:

- (a) Drinking water will be supplied via commercially purchased water in sealed bottles in the refuge chamber.
- (b) The water provided will be sufficient for four miners for a 10 day period. Six cases of commercially bottled water will be maintained in the refuge chamber. Each case consists of 32, 16.9 fluid ounce bottles.
- (c) The bottled water will be visually inspected on a weekly basis.
- (d) The bottled water will be replaced every two years or sooner in the event of damage, usage, or degradation.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

**Song-ae Aromie Noe,**

*Acting Director,*

*Office of Standards, Regulations, and Variances.*

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